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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 6 November 1996 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

In accordance with General Assembly resolution 48/155 of 20 December 1993, I have the honour to transmit information on the situation of human rights in Latvia and Estonia (see annex).

I should be grateful if you would have this information circulated as an official document of the General Assembly under agenda item 110 (c).

(Signed) S. LAVROV

96-31132 (E) 131196 141196

ANNEX

The situation of human rights in Latvia and Estonia

The factual situation is that over 1 million permanent residents of those countries (more than 700,000 in Latvia and more than 300,000 in Estonia) are minorities and have been deprived of citizenship and, consequently, of the status of national minority.

I. The position of representatives of the disenfranchised nationalities using the Russian language as a means of communication between nationalities (the Russian-speaking population) in Latvia and Estonia in 1996 has not only not changed for the better in any respect but is steadily tending to deteriorate.

The policy of Latvia and Estonia with respect to persons treated by the legislation adopted by the parliaments of those countries after the proclamation of their independence in 1991 as non-citizens is becoming more and more overtly discriminatory in character, and its objective of forcing out the Russian-speaking population is becoming ever more thinly disguised. In practice, this is bringing about a change in the established ethnic balance and the formation in Latvia and Estonia of societies founded on mono-ethnic principles.

II. The main reason for the unregulated status of hundreds of thousands of permanent residents of Latvia and Estonia of non-Latvian and non-Estonian origin is the legislation of those countries on the basis of which those persons have arbitrarily been deprived of their citizenship and have been declared to be aliens in their own countries of residence whose fundamental political, civil, economic, social and cultural rights are thus being curtailed. In the legislation of Latvia there are at present over 60, and in that of Estonia, over 40, fundamental differences in the rights of citizens and non-citizens of the country.

Estonia

1. As a result of the deliberate policy conducted by Estonia of edging out the non-Estonian part of the population during the period from 1991 to 1996, over 100,000 residents who were non-citizens left that country and 116,000 Russian-speaking residents became Russian citizens.

2. The laws passed in Estonia during the period from 1992 to 1995 affecting the rights and freedoms of the Russian-speaking residents of that country violated the Russian-Estonian Treaty on the basis for inter-State relations of 12 January 1991, articles 3 and 4 of which guarantee the right of persons living at the time when it was signed in the territory of the Russian Federation and in that of the Republic of Estonia, and being at that time citizens of the Union of Soviet Social Republics (USSR), to retain or acquire the citizenship of the Russian Federation or of the Republic of Estonia in accordance with freely expressed wishes. They also recognize the civil and political rights and freedoms, and the social, economic and cultural rights of non-citizens,

irrespective of their national ties, in accordance with generally recognized international legal human rights standards.

3. On 19 January 1995, the Estonian Parliament passed the Citizenship Act which substantially tightened up the conditions for the acquisition of citizenship, even by comparison with the legislation in force in Estonia during the period 1992-1995. Under that Act, the right of permanent residents of the Republic of Estonia, who had permanent residence status prior to 1 July 1990, to acquire citizenship could, at best, be made effective over a 9 to 10-year period, including residence in the country on a short-term (three-year) and a permanent (five-year) residence permit, and the time taken up by administrative procedures. Prior to the acquisition of citizenship, the Act downgrades to "temporary" status the legal residence in Estonia of persons lawfully present in the territory of the present-day Estonia before 1990 on the basis of a permanent identity document.

In particular, the new Citizenship Act raised the qualifications for permanent settlement status and sharply increased the Estonian language proficiency requirements. Even marriage to a citizen of Estonia, employment in its territory and possession of real estate now confer no advantages in terms of the acquisition of citizenship. In practice, the application of the Act virtually deprives a major segment of the population of Estonia of the possibility of regaining their lost status as citizens and bars their access to participation in the political and socio-economic life of the country. It is no mere chance that the Human Rights Committee of the United Nations, in its concluding observations on the report of Estonia concerning its implementation of the International Covenant on Civil and Political Rights, expressed concern that the policy of the Government in the field of naturalization and citizenship had created a number of problems which impeded the implementation (by Estonia) of the Covenant (see CCPR/C/79/Add.59).

4. As a result of the passing of this Act, in breach of the right to a nationality established in the Universal Declaration of Human Rights, about 200,000 people of non-indigenous nationality in Estonia were to all intents and purposes rendered stateless. However, Estonian legislation does not even accord them the status of stateless persons as recognized by the world community.

5. The Aliens Act, adopted on 8 July 1993, was devised to cover this category of permanent residents of Estonia. It set up a system for the issue of aliens' identity cards to persons applying for a residence permit in Estonia.

Holders of such identity cards were granted by the legislators an even narrower range of rights than stateless persons and the citizens of other States living in that country. By way of example, the document contains the entry "citizen of the former USSR" which consigns the holder to the citizenship of a non-existent State and in fact deprives him of an entire body of rights, including the right to legal and consular protection when travelling abroad, and prevents the reunification of families.

6. Moreover, not only was the process of issuing such documents not completed by 12 July 1996 (as envisaged by the decree of the Government of the Republic of Estonia of 7 December 1995), but the documents have not so far been made

available on the necessary scale. Only some 20,000 out of 110,000 applicants have received their identity cards.

7. The low rate of naturalizations exacerbates the situation. During the period from 1992 to 1996 just over 80,000 people acquired Estonian citizenship through naturalization. Some 30,000 of them became citizens after going through the highly complex procedure of being examined on their knowledge of the Estonian language and the Constitution of the country (mainly those who had been living in Estonia before 1940); others, who are the majority, acquired citizenship as persons equated with ethnic Estonians for "special services to the Republic of Estonia". The Human Rights Committee expressed particular concern at the fact that no remedy was available under Estonian legislation against an administrative decision rejecting the request of an applicant for citizenship under the naturalization arrangements (see CCPR/C/79/Add.59).

8. The Estonian Language Act, passed in 1995, intensified discrimination in many important fields of public life against people who did not speak the national language. The Act does not provide for the possibility of education using any language other than Estonian.

9. The completion by 12 July 1996 of the period for consideration of applications for temporary residence permits entailed a major change in the civil and legal status of more than 300,000 residents of Estonia. Having acquired the right, under pressure from the world community, to remain legally in the territory of Estonia, they nevertheless found themselves transferred from the category of permanent residents to that of temporary residents, a status which deprived them of a whole series of rights. In particular, in accordance with the Estonian Privatization Act of 6 May 1993, only permanent residents of the Republic are entitled to privatize occupied residential property. Similarly, only permanent residents of Estonia are entitled to acquire residential property for permanent occupation.

In accordance with the Unemployment Insurance Act of 26 October 1994, entitlement to use the services of the labour exchange and to receive an unemployment benefit is granted only to permanent residents.

The sector of the population of Estonia holding only temporary residence permits is deprived of the right to participate in the conduct of public affairs and has no access, "on general terms of equality, to public service" (article 25 of the Covenant). In this connection, the Human Rights Committee of the United Nations, commenting on the situation in Estonia, expressed concern that "the conditions for appointment to or employment in any position in a State or local government agency, in particular the automatic exclusion of persons unable to satisfy the requirements of the written oath of conscience regarding their previous activities (under the former regime), may give rise to an unreasonable restriction on the right of access to public service without discrimination" (CCPR/C/79/Add.59, para. 14).

10. The Estonian authorities are delaying the implementation of many provisions of the Russian-Estonian Agreement on Social Guarantees for Retired Russian Military Personnel in the territory of Estonia of 26 July 1994. The military pensioners are issued temporary residence permits for two, four or five years,

or even six months; in view of the complexity of the procedure for registration and the advanced age of the holders of such permits, this places them in an extremely difficult position.

In this connection, a military pensioner may be refused a residence permit or the extension thereof on the grounds of his previous activities, including service in military and law enforcement units which were at the time functioning legally in the territory of what is now Estonia.

11. The Local Elections Act was only slightly revised during the review process and still contains many discriminatory provisions. Additional artificial obstacles were created to the free expression of the will of those who fall into the category of non-citizens permanently resident in Estonia. For instance, only those of them who personally submit an individual application at specially assigned points within a very strict deadline are registered to vote. Citizens of Estonia are not subject to the same procedure. As for those who fall into the category of temporary residents, there is no question of their participation in elections.

12. The forcing out of the use of the second most widely spoken language in Estonia - Russian - is continuing. Even in places where the population is solidly (up to 90 per cent) Russian speaking, all local government documentation is in the Estonian language; the relaying of Russian television and radio broadcasts in the Russian language has virtually ceased and the circulation of mass information media publications in the Russian language is strictly limited in both retail sales and subscription sales. Such an approach is contrary to the generally recognized international standards in that field.

13. On the pretext of the lack of a licence, the authorities in Estonia are threatening to close a number of educational-advisory centres of Russian higher educational establishments which, for a fee, provide part-time courses with elements of the full-time/part-time study system.

14. In open infringement of the freedom of religion of Orthodox believers, the Estonian authorities have persecuted the Estonian Apostolic Orthodox Church, which is under the canonical jurisdiction of the Moscow Patriarch. Despite a compromise reached between the Moscow and Constantinople Patriarchates on the self-determination of parishes and the division of church property on that basis and the delimitation of their canonical jurisdiction, the Estonian authorities do not recognize the right of the Estonian Apostolic Orthodox Church to all its property.

15. Estonia continues to disregard many recommendations of the United Nations, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and the European Union aimed at ensuring respect for human rights in the Republic of Estonia, including amendments to the country's legislation. International experts at various levels, including the High Commissioner on National Minorities of OSCE, Mr. M. van der Stoel, taking into account the standards of the Council of Europe, have recommended that the Estonian authorities should grant permanent residence permits to those who, on 1 July 1990, were permanent residents of the territory which is now Estonia. This recommendation is being disregarded by Estonia. As for the comments of the

independent members of the Human Rights Committee, in Tallinn they hastened to call them "unfair".

Latvia

1. Latvia's policy with regard to citizenship, in particular in relation to permanent residents of a disenfranchised nationality who use the Russian language as a means of communication between nationalities, has resulted in approximately 75,000 people being forced to leave the Republic between 1991 and 1993 alone. Tens of thousands of people have taken the citizenship of other States during the years since Latvia's independence, including 66,000 who have taken Russian citizenship.

2. The Citizenship Act adopted by the Latvian Saeima on 21 July 1994 openly discriminates against the Russian-speaking population living in the territory of the country. The amendments introduced in the text of the Act under pressure from international organizations have not changed its substance.

Starting in 1996, an age-group sequence was introduced for the submission of applications for citizenship: ages 16 to 21, 21 to 25, 26 to 30 and then 30 and over. The last group will be able to claim Latvian citizenship only in the year 2000. Thus, about 500,000 permanent residents of Latvia will be expatriates at least until the beginning of the next century.

From the adoption of the Act to date, only about 2,000 people have been naturalized. The procedure established for this is extremely complex: 25 documents need to be submitted, most of them notarized.

3. The vast majority of the Russian-speaking population of Latvia, like that of Estonia, was initially deprived of citizenship, and then of the real possibility of obtaining it, and thus is prevented from participating in elections, deprived of the right to purchase land, and subjected to considerable limitations on the rights to privatize and to establish joint stock companies, as well as to occupy posts in the public administration.

Thus, the non-citizens permanently resident in Latvian territory cannot count on receiving their share of the State property that was created with their active participation. The period of residence of persons in this category is artificially reduced on contrived pretexts (for example, temporary travel outside Latvia or employment as civilians in military units), with the result that in many cases they lose the right to obtain privatization certificates and, ultimately, to privatize their residence.

4. The Citizenship and Immigration Department, the arbitrariness of which the Latvian authorities are fond of citing although it is an inseparable part of the country's machinery of State, often interprets the legislation in an arbitrary manner, thus making the already difficult situation of the non-citizens even worse. According to data from the Latvian Human Rights Committee, over the past three years more than 10,000 people in Riga alone have complained of illegal actions by the Department (the OSCE mission in Riga has more than once referred in its documents to the unsatisfactory work of this Department).

5. Under the terms of the Latvian Local Elections Act, residents of that country who are classified as non-citizens are deprived of passive and active voting rights by a minimum of two means. In the first place, the majority of them have not obtained the status of permanent residents and accordingly have no right to participate in the elections. In the second place, the language restrictions introduced by the Act block those who have an insufficient command of Latvian. This situation also applies to specific categories of citizens (only candidates who have passed an examination in Latvian at the highest level can run for office).

6. The resolution of the Latvian Parliament of 28 April 1993 on the issuing of a temporary residence permit to persons whose presence in Latvia is occasioned by the temporary stationing of armed forces of the Russian Federation on its territory substantially limits the rights of a considerable portion of the Russian-speaking population to free choice of their place of residence. Under the terms of the resolution, such persons and members of their families are transferred to the category of "aliens" and deprived of citizenship.

7. Just as in Estonia, there is substantial infringement upon the socio-economic rights of those permanent residents of Latvia who are deprived of citizenship and classified as non-citizens.

Those of the residents who for various reasons are not included in the Register of residents of Latvia are automatically deprived of the right to receive children's allowances, unemployment allowances and free medical care for their children, to receive privatization certificates, to invite relatives from abroad and to receive tax books, which rules out receipt of tax concessions and the possibility of access to legal job placement, and of the right of free entry into and departure from the country.

The level of social security for non-citizens is lower than for citizens of Latvia, and they are subject to limitations on their right to obtain and purchase housing.

Persons in this category are in fact the first candidates for dismissal from work and the last for job placement, and are deprived of social allowances, including unemployment allowances.

8. Under the terms of the State Language Act, all State employees must undergo testing for knowledge of Latvian, and the level of command of the language required is directly dependent on the post occupied.

9. The Latvian Saeima has adopted in first reading a new version of the State Language Act which excludes the possibility of using other languages, including in the economic sphere. Thus Russian, which more than 90 per cent of the population are able to use, is virtually proclaimed unlawful.

10. Despite the fact that the right to freedom of association, with the exception of the establishment of secret organizations and armed formations, is embodied in Latvian legislation, a large number of non-governmental organizations, including the League of Stateless Persons in Latvia, the Union for the Protection of Veteran's Rights, the Association of Former Minors Who

Suffered From the Nazi Regime, the Association of Russians in Latvia and the Association of Russian Nationals have been denied registration.

11. The Russian-language cultural space has been seriously reduced: the dissemination of Russian mass media, including Russian television broadcasts, has been sharply restricted in Latvia.

12. The concern for the situation of the Russian-speaking population in Latvia is shared by independent experts and the international community. The OSCE mission in Riga keeps proposing to the Latvian authorities that they reduce the language and other requirements upon those applying for citizenship. In the view of the OSCE High Commissioner on National Minorities, Mr. van der Stoel, the legislation in force in Latvia creates excessively high barriers to naturalization, as reflected in the unjustifiably stringent requirements for knowledge of the language, history and constitution, and does not encourage efforts for the integration of non-Latvians into Latvian society.

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It is probably worth repeating the universally known truth that observance of human rights and the building of a democratic State ruled by law are inseparable. And it is precisely for this reason, and in the interests of democracy, stability and inter-ethnic harmony in the European continent and, consequently, security, that there is growing concern over the situation of persons in Latvia and Estonia who are deprived not only of citizenship but also of a whole range of cultural and social economic rights that are directly associated with citizenship. The prolonged retention of a source of international tension in the centre of Europe cannot but run counter to the interests of the international community as well.